

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
CIVIL MINUTES

Case Title: Southgate Town and
Terrace Homes, Inc.

Case No.: 22-20632 - A - 11

Docket Control No. CAG-1

Date: 07/18/2022

Time: 1:30 PM

Matter: [91] - Motion for Relief from Automatic Stay [CAG-1] Filed by Interested Party California Department of Housing and Community Development (Fee Paid \$188) (eFilingID: 7109503) (ltrf) [91] - Motion/Application to Dismiss Case [CAG-1] Filed by Interested Party California Department of Housing and Community Development (ltrf) [91] - Notice of Hearing Re: [91] Motion/Application to Dismiss Case [CAG-1], [91] Motion for Relief from Automatic Stay [CAG-1] to be held on 7/18/2022 at 01:30 PM at Sacramento Courtroom 28, Department A. (ltrf)

Judge: Fredrick E. Clement
Courtroom Deputy: Janice Busch
Reporter: Not Recorded
Department: A

APPEARANCES for:

Movant(s):

None

Respondent(s):

None

CIVIL MINUTES

Motion: Dismiss Chapter 11 case and/or Stay Relief

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Denied without prejudice

Order: Civil minute order

California Department of Housing and Community Development moves to dismiss debtor Southgate Town and Terrace Homes, Inc.'s Chapter 11 case as a filing "in bad faith" or, in the alternative, for stay relief. Mot. 1:25-2:8, ECF No. 91. The debtor opposes the motion. Because the State of California Department of Housing and Community Development has violated applicable local rules the court need not reach the merits and the motion will be denied without prejudice.

DISCUSSION

Local Rules govern the form of documents filed and the presentation of motions before this court. LBR 9004-1, 9004-2, 9014-1. Here, the State of California has violated multiple provisions of applicable local rules.

Joinder of Motions

In most instances, local rules prohibit the joinder of motions.

5) Joinder.

A) *Except as otherwise provided herein, every application, motion, contested matter, or other request for an order shall be filed separately from every other request.* All requests for relief shall state with particularity the grounds therefor and shall set forth the relief or order sought. Other documents, exhibits, or supporting pleadings shall not be incorporated by reference.

B) Notwithstanding the foregoing, the following requests for relief may be joined in a single motion, Fed. R. Civ. P. 18, incorporated by Fed. R. Bankr. P. 7018, 9014(c):

(i) relief in the alternative based on the same statute or rule;

(ii) authorization for sale of real property and allowance of fees and expenses for a professional authorized by prior order to be employed for the sale of such property, 11 U.S.C. §§ 327, 328, 330, 363, Fed. R. Bankr. P. 6004;

(iii) authorization to employ a professional, i.e., auctioneer, for sale of estate property at public auction, and allowance of fees and expenses for such professional, 11 U.S.C. §§ 327, 328, 330, 363, Fed. R. Bankr. P. 6004-6005;

(iv) motion for stay relief and/or abandonment of property of the estate, 11 U.S.C. §§ 362, 554, Fed. R. Bankr. P. 4001, 6007;

(v) approval of compromise and compensation of special counsel previously authorized to be employed relating to the underlying compromise, Fed. R. Bankr. P. 9019; 11 U.S.C. §§ 327, 328, 330; and

(vi) as otherwise expressly provided by these Rules.

C) Where a party in interest joins requests for relief that party shall: (1) expressly and separately describe in the title of the motion, and all ancillary

pleadings, each relief sought, e.g., Motion for Authorization to Sell Real Property and Motion For Compensation of Real Estate Broker (2/2/22 Employment Order) (2) provide notice to opposing parties consistent with the longest notice period applicable to the relief sought; and (3) at the time of filing tender to the Clerk of the Court the aggregate of all filing fees due each request for relief, notwithstanding the joinder of requests for relief into a single motion.

LBR 9014-1(d) (5) (emphasis added).

Here, the movant has joined relief under 11 U.S.C. § 1112(b) and 11 U.S.C. § 362. No exception is applicable.

Exhibits

Separate documents

Exhibits must be filed as a separate single document.

Separate Exhibit Document(s). *Exhibits shall be filed as a separate document from the document to which it relates and identify the document to which it relates (such as "Exhibits to Declaration of Tom Swift in Support of Motion for Relief From Stay"). A separate exhibit document may be filed with the exhibits which relate to another document, or all of the exhibits may be filed in one document, which shall be identified as "Exhibits to [Motion/Application/Opposition/...]."*

LBR 9004-2(d) (1) (emphasis added).

Here, the movant has filed exhibits as attachments to the document to which it relates. See e.g., Request for Judicial Notice, ECF No. 92; Stokes decl. ECF No. 94; Weber decl. ECF No. 95.

Numbering

Exhibits must be sequentially numbered from the first page of the first document to the last page of the last document.

Numbering of Pages. The exhibit document pages, including the index page, and any separator, cover, or divider sheets, shall be consecutively numbered and shall state the exhibit number/letter on the first page of each exhibit.

LBR 9004-2(d) (3)

Here, the page number is sequential within each exhibit; this is not in compliance with applicable rules.

Index

A detailed index must be provided.

Exhibit Index. Each exhibit document filed shall have an index at the start of the document that lists and identifies by exhibit number/letter each exhibit individually and shall state the page number at which it is found within the exhibit document.

LBR 9004-1(d)(2).

Most exhibits have no index. Stokes decl. ECF No. 94; Weber decl. ECF No. 95. One set of exhibits has a partial index. Request for Judicial Notice, ECF No. 92 (without reference to the page on which the exhibit starts.

For each of these reasons the motion is denied without prejudice. The State of California is cautioned that all future motions must comply with applicable provisions of the Bankruptcy Code, Federal Rules of Bankruptcy Rules and Local Rules.